

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California
INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES AND
DAVIS WATER DISTRICT
PROVIDING FOR PROJECT WATER SERVICE

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AND
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THIS CONTRACT, made this 28th day of February 2001, in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto, including, but not limited to, the acts of August 26, 1937 (50 Stat. 844), as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), as amended and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter referred to as the Federal Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, and DAVIS WATER DISTRICT, hereinafter referred to as the Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant to the laws thereof, with its principal place of business in Arbuckle, California;

WITNESSETH, That:

1 EXPLANATORY RECITALS

2 WHEREAS, the United States has constructed and is operating the Central Valley
3 Project, California for diversion, storage, carriage, distribution and beneficial use, for flood
4 control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and
5 restoration, generation and distribution of electric energy, salinity control, navigation and other
6 beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and
7 the San Joaquin River and their tributaries; and

8 WHEREAS, the United States constructed the Red Bluff Diversion Dam, and
9 Tehama-Colusa Canal and related delivery facilities including pumping plants, hereinafter
10 collectively referred to as the Canal Facilities, which will be used in part for the furnishing of
11 water to the Contractor pursuant to the terms of this interim renewal contract; and

12 WHEREAS, the Contractor and the United States entered into Contract No. 14-
13 06-200-6001A on February 13, 1973, which provided the Contractor Central Valley Project
14 water from the Canal Facilities to February 28, 1995, and under which the initial date of water
15 delivery to the Contractor was January 1, 1984; and

16 WHEREAS, the Contractor and the United States entered into interim renewal
17 contract(s) identified as Contract No(s). 14-06-200-6001A-IR1, 14-06-200-6001A-IR2, 14-06-
18 200-6001A-IR3, and 14-06-200-6001A-IR4, the latter of which is hereinafter referred to as the
19 Existing Interim Renewal Contract, which provided for the continued water service to the
20 Contractor from December 1, 2000 through February 28, 2001; and

1 WHEREAS, the Contractor has requested a subsequent interim renewal contract
2 pursuant to the Existing Interim Renewal Contract, Federal Reclamation law and the laws of the
3 State of California, for water service from the Central Valley Project; and

4 WHEREAS, the United States has determined that the Contractor has to date
5 fulfilled all of its obligations under the Existing Interim Renewal Contract; and

6 WHEREAS, The Contracting Officer has determined that the Contractor has the
7 capability to fully utilize for reasonable and beneficial use, or shown projected future reasonable
8 and beneficial use for, the quantity of Project Water to be made available to it pursuant to this
9 interim renewal contract; and

10 WHEREAS, rights of renewal of Contract No. 14-06-200-6001A, and to convert
11 said contract to a contract as provided by subsection (d), Section 9 of the Act of August 4, 1939
12 (53 Stat. 1187) are set forth in said contract; and

13 WHEREAS, Section 3404 of the CVPIA, precludes long-term renewal of water
14 service contracts until the completion of appropriate environmental documentation, including a
15 programmatic environmental impact statement ("PEIS") pursuant to the National Environmental
16 Policy Act analyzing the direct and indirect impacts and benefits of implementing the CVPIA
17 and the potential renewal of all existing contracts for Project Water; and

18 WHEREAS, in order to continue water service provided under Project water
19 service contracts that expire prior to the completion of the PEIS, the United States intends to
20 execute interim renewal contracts for a period not to exceed three (3) Years in length, and for
21 successive interim periods of not more than two (2) Years in length, until appropriate
22 environmental documentation, including the PEIS, is finally completed, at which time the

Secretary shall, pursuant to Federal Reclamation law, upon request of the Contractor, enter into a long-term renewal contract for a period of twenty-five (25) Years; and may thereafter renew such long-term renewal contracts for successive periods not to exceed twenty-five (25) Years each; and

WHEREAS, the Secretary intends to assure uninterrupted water service and continuity of contract through the process set forth in Article 2 hereof; and

WHEREAS, the United States is willing to renew the Existing Interim Renewal Contract pursuant to section 3404(c)(1) of the CVPIA on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is hereby mutually agreed by the parties hereto as follows:

DEFINITIONS

1. When used herein unless otherwise distinctly expressed, or manifestly incompatible with the intent hereof, the term:

(a) "Calendar Year" shall mean the period January 1 through December 31, both dates inclusive;

(b) "Charges" shall mean the payments in addition to the Rates determined annually by the Contracting Officer, required by the Federal Reclamation law, including Section 3407 of the CVPIA;

(c) "Contractor's Boundaries" shall mean the area to which the Contractor is permitted to provide Project Water under this interim renewal contract identified in

1 Exhibit "A", which area and exhibit may be revised without amending this contract if
2 such revisions are acceptable to the Contracting Officer;

3 (d) "CVPIA" shall mean the Central Valley Project Improvement Act, Title
4 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

5 (e) "Delivered Water" shall mean Project Water made available to
6 the Contractor and diverted at the point(s) of delivery approved by the Contracting
7 Officer;

8 (f) "Eligible Lands" shall mean all lands to which Irrigation Water may be
9 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12,
10 1982 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

11 (g) "Excess Lands" shall mean all lands defined as excess in Section 204 of
12 the RRA, other than those lands exempt from acreage limitation under Federal
13 Reclamation law;

14 (h) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3)
15 or 202(3) of the RRA, whichever is applicable;

16 (i) "Ineligible Lands" shall mean all lands to which Irrigation Water may not
17 be delivered in accordance with Section 204 of the RRA;

18 (j) "Irrigation Water" shall mean Project Water which is used primarily in the
19 production of agricultural crops or livestock, including domestic use incidental thereto,
20 and watering of livestock;

21 (k) "Landholder" shall mean an individual or entity attributed with the total
22 irrigable acreage of one or more tracts of land situated in one or more districts owned

1 and/or operated under a lease which is served with Irrigation Water pursuant to a contract
2 with the United States;

3 (l) "M&I Water" shall mean water made available from the Project other than
4 Irrigation Water. M&I Water shall include water used for purposes such as the watering
5 of landscaping or pasture for animals (e.g., horses) which are kept for personal enjoyment
6 or water delivered to landholdings operated in units of less than five (5) acres unless the
7 Contractor establishes to the satisfaction of the Contracting Officer that the use of water
8 delivered to any such landholding is a use described in subdivision (j) of this Article;

9 (m) "O&M" shall mean normal and reasonable care, control, operation, repair,
10 replacement and maintenance of Project facilities;

11 (n) "Operating Non-Federal Entity" shall mean a Non-Federal entity which
12 has the obligation to operate and maintain all or a portion of the Canal Facilities pursuant
13 to an agreement with the United States;

14 (o) "Project" shall mean the Central Valley Project owned by the United
15 States and operated by the Department of the Interior, Bureau of Reclamation;

16 (p) "Project Water" shall mean all water that is developed, diverted, stored, or
17 delivered by the United States in accordance with the statutes authorizing the Project and
18 in accordance with the terms and conditions of applicable water rights permits and
19 licenses acquired by and/or issued to the United States pursuant to California law;

20 (q) "Rates" shall mean the payments determined annually by the Contracting
21 Officer in accordance with the then current applicable water ratesetting policies for the
22 Project;

1 (r) "Secretary" or "Contracting Officer" shall mean the Secretary of the
2 United States Department of the Interior or his duly authorized representative;

3 (s) "Year" shall mean the period from and including March 1 of
4 each Calendar Year through the last day of February of the following Calendar Year.

5 TERM OF CONTRACT - RIGHT TO USE OF WATER

6 2. (a) This interim renewal contract shall be effective from March 1, 2001 and
7 shall remain in effect through February 28, 2002, and thereafter will be renewed as described in
8 this article. Except as provided in subdivision (b) of this Article, until completion of all
9 appropriate environmental review, and provided that the Contractor has complied with all the
10 terms and conditions of the interim renewal contract in effect for the period immediately
11 preceding the requested successive interim renewal contract, this interim renewal contract will be
12 renewed, upon request of the Contractor, for successive interim periods each of which shall be no
13 more than two (2) Years in length. Also, except as provided in subdivision (b) of this Article, in
14 order to promote orderly and cost effective contract administration, the terms and conditions in
15 subsequent interim renewal contracts shall be identical to the terms and conditions in the interim
16 renewal contract immediately preceding the subsequent interim renewal contract: Provided,
17 however, That each party preserves the right to propose modification(s) in any interim renewal
18 contract other than those described in subdivision (b) of this Article, in which case the parties
19 shall negotiate in good faith appropriate modification(s) to be included in any successive interim
20 renewal contracts. Said modification(s) of each successive interim renewal contract shall be
21 agreed upon within a reasonable time prior to the expiration of the then existing interim renewal
22 contract. Nothing in this Article shall in any way alter the obligation that, upon final completion

1 of the PEIS and any necessary supplemental environmental documentation, the Secretary shall,
2 pursuant to Federal Reclamation law, upon request of the Contractor, enter into a long-term
3 renewal contract for a period of twenty-five (25) Years and may thereafter renew such long-term
4 renewal contracts for successive periods not to exceed twenty-five (25) Years each. The
5 Contractor asserts that Contract No. 14-06-200-6001A and existing law go beyond the preceding
6 sentence to give it enforceable rights to successive long-term renewal contracts. The Contracting
7 Officer disagrees with that assertion. The parties agree that this interim renewal contract
8 preserves the rights and positions of the parties and that the omission of language in this interim
9 renewal contract setting out the rights asserted by the Contractor to successive renewals is not
10 intended to be, nor shall it be interpreted as, a waiver of any such rights to the extent any such
11 rights are later determined to exist by a court of competent jurisdiction or by mutual agreement of
12 the parties. If a court of competent jurisdiction or the parties by mutual agreement determine that
13 incorporation of such language in this interim renewal contract is necessary to preserve such
14 rights, this interim renewal contract shall be construed as incorporating such language as though
15 fully set forth herein as of the effective date hereof.

16 (b) The parties anticipate that they will engage in good faith negotiations
17 intended to permit the execution of a twenty-five (25) Year long-term renewal contract
18 contemplated by Section 3404 (c) of the CVPIA, hereinafter referred to as a “long-term renewal
19 contract”, by the end of the term hereof. The parties recognize the possibility that this schedule
20 may not be met. Accordingly:

21 (1) In the event (i) the Contractor and Contracting Officer have
22 reached agreement on the terms of the Contractor’s long-term renewal contract or (ii) the

1 Contractor and Contracting Officer have not completed the negotiations on the Contractor's
2 long-term renewal contract, believe that further negotiations on that contract would be beneficial,
3 and mutually commit to continue to negotiate to seek to reach agreement, but (iii) all
4 environmental documentation required to allow execution of the Contractor's long-term renewal
5 contract by both parties has not been completed in time to allow execution of the Contractor's
6 long-term renewal contract by November 30, 2001, then (iv) the parties will expeditiously
7 complete the environmental documentation required of each of them in order to execute the
8 Contractor's long-term renewal contract at the earliest practicable date. In addition, the
9 Contractor's then current interim renewal contract will be renewed without change upon the
10 request of either party through the agreed-upon effective date of the Contractor's long-term
11 renewal contract or, in the absence of agreement on the terms of the Contractor's long-term
12 renewal contract, through the succeeding February 28.

13 (2) Provided that this interim renewal contract is not subject to
14 renewal under the terms described in subdivision (1) of this Article, if a party determines that the
15 parties have reached an impasse which they have been unable to resolve and which precludes
16 agreement on the long-term renewal contract, that party may notify the other that it has concluded
17 that there is no reasonable likelihood of reaching agreement on the terms of a long-term renewal
18 contract. In the event of such notice, the parties will immediately agree to a schedule and process
19 for negotiating the terms (other than any terms that would impair continuity of water supply or
20 continuity of contract) of and executing an interim renewal contract; provided that neither party
21 will propose for inclusion in the interim renewal contract any provision not previously included
22 in an existing interim renewal contract which it had previously proposed for inclusion in the

1 long-term renewal contract and which was the subject of an impasse in the long-term renewal
2 contract negotiations. The schedule will provide for completion of the negotiations of the terms
3 of that contract by February 1, 2002, and for execution of the contract on or about February 15,
4 2002. The parties each acknowledge the right of either party to seek judicial relief in connection
5 with any impasse reached in connection with negotiation of the long-term renewal contract
6 and/or an interim renewal contract that would become effective on or after February 28, 2002.

7 (c) The parties acknowledge that the Contractor asserts that it is entitled as a
8 matter of law to an interim renewal contract of longer duration than twelve (12) months, and that
9 the Contracting Officer asserts that it is under no obligation to provide the Contractor with an
10 interim renewal contract of any particular duration. Accordingly, the parties further acknowledge
11 that (i) the foregoing process represents a mutual accommodation to facilitate their joint desire to

1 proceed with the development of a long-term renewal contract in an expeditious and orderly
2 manner, (ii) they each preserve their respective rights and positions relative to the entitlement of
3 the Contractor to subsequent interim renewal contracts should they become necessary, and the
4 terms thereof, and (iii) their agreement to the process and interim renewal contract terms
5 described above is in no way intended to be, nor will it be interpreted as, a waiver of any such
6 rights or positions, all of which are and will be expressly preserved.

7 (d) The omission of language in this interim renewal contract providing for
8 conversion of this interim renewal contract or any subsequent renewals thereof to a repayment
9 contract, pursuant to the Act of July 2, 1956 (70 Stat. 483), shall not prejudice the Contractor's
10 right to assert a right to have such language included in subsequent renewals of this interim
11 renewal contract or to exercise such conversion, all as provided by law, or to negotiate the
12 language regarding such conversion to be included in subsequent renewal contracts.

13 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

14 3. (a) Subject to the provisions set forth in Articles 11 and 12 hereof, and
15 consistent with applicable State water rights, permits and licenses, the Contractor is entitled to,
16 and the Contracting Officer shall be obligated to make available to the Contractor up to 4,000
17 acre-feet of Project Water for irrigation and/or municipal and industrial purposes during the term
18 of this interim renewal contract. The quantity of Project Water delivered to the Contractor in
19 accordance with this Article 3(a) in any Year shall be scheduled and paid for pursuant to the
20 provisions of Articles 4 and 7 hereof, and shall not exceed the quantity of Project Water the
21

1 Contractor intends to put to reasonable beneficial use within the Contractor's Boundaries or sold,
2 transferred, or exchanged pursuant to Article 9 during the term of this interim renewal contract.

3 (b) The Contractor shall utilize the Project Water made available to it pursuant
4 to this interim renewal contract in accordance with all applicable requirements of any Biological
5 Opinion addressing the execution of this interim renewal contract developed pursuant to Section
6 7 of the Endangered Species Act of 1973 as amended, and in accordance with environmental
7 documentation as may be required for specific activities, including conversion of Irrigation Water
8 to M&I Water.

9 (c) The Contractor shall make reasonable and beneficial use of Project Water
10 or other water furnished pursuant to this interim renewal contract.

11 (d) If the Contracting Officer determines that Project Water, or other water
12 available to the Project, can be made available to the Contractor in addition to the quantity of
13 Project Water made available to the Contractor pursuant to subdivision (a) of this Article, the
14 Contracting Officer shall so notify the Contractor. If the Contractor requests the delivery of any
15 quantity of such water, the Contracting Officer shall make such water available to the Contractor
16 in accordance with applicable statutes, regulations, guidelines and policies.

17 (e) If the Contractor requests permission to reschedule for use during the
18 subsequent Year some or all of the Project Water made available to the Contractor during the
19 current Year or to use, during the current Year, that quantity of Project Water the United States

1 has agreed to make available to the Contractor during the subsequent Year, the Contracting
2 Officer may permit such uses in accordance with applicable statutes, regulations, guidelines and
3 policies.

4 (f) The Contractor's right pursuant to Federal Reclamation law and applicable
5 State law to the beneficial use of water furnished pursuant to this interim renewal contract, any
6 subsequent interim renewal contract and, as described in Article 2(a), any long-term renewal
7 contract, shall not be disturbed so long as the Contractor shall fulfill all of its obligations under
8 this interim renewal contract and any such renewal thereof. Nothing in the preceding sentence
9 shall affect the Contracting Officer's ability to impose shortages under Article 12(b) of this
10 interim renewal contract and the applicable provisions of any such renewal thereof.

11 (g) Notwithstanding subdivisions (j) and (l) of Article 1, Project Water
12 furnished to the Contractor pursuant to this interim renewal contract may be delivered for
13 purposes other than those described in subdivisions (j) and (l) of Article 1 upon written approval
14 by the Contracting Officer in accordance with the terms and conditions of such approval.

15 (h) The Contractor may request, in writing, and the Contracting Officer may
16 approve, in writing, the Contractor's first or initial use of any Project Water to which it is entitled
17 under subdivision (a) of this Article 3 as M&I Water; Provided, that any requirements of Federal
18 Law, including without limitation those set forth in subdivision (b) of Article 3 which apply to
19 the delivery and use of such quantities of Project Water as M&I Water have been met; Provided
20 further, That no additional approval of the Contracting Officer shall be required for the
21 continuing use of water as M&I Water.

22 TIME FOR DELIVERY OF WATER

1 4. (a) On or about February 15, of each Calendar Year, the Contracting Officer
2 shall declare the amount of Project Water estimated to be made available to the Contractor
3 pursuant to this interim renewal contract for the upcoming Year. The declaration will be updated
4 monthly, as necessary, based on current hydrologic conditions. The Contracting Officer shall
5 make available the forecast of Project operations, with relevant supporting information, upon the
6 written request of the Contractor or its representatives. Upon written request of the Contractor,
7 the Contracting Officer shall provide the basis of the estimate which shall include, but not be
8 limited to, a monthly pumping forecast for the O'Neill Pumping Plant, the projected carryover of
9 Project reservoirs, projected CVPIA impacts, projected Endangered Species Act and all other
10 regulatory impacts.

11 (b) On or before each March 1, the Contractor shall submit to the Contracting
12 Officer and at such other times as necessary, a written schedule, satisfactory to the Contracting
13 Officer, showing the times, and quantities of Project Water to be delivered by the United States
14 to the Contractor during the upcoming Year pursuant to this interim renewal contract, and,
15 consistent with subdivision (a) of Article 3 herein.

16 (c) Subject to the conditions set forth in subdivision (a), Article 3, the United
17 States shall deliver Project Water to the Contractor in accordance with the initial schedule
18 submitted by the Contractor pursuant to subdivision (b) of this Article, or any revision(s) thereto
19 submitted within a reasonable time prior to the date(s) on which the requested change(s) is/are to
20 be implemented.

21 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

1 5. (a) The Project Water to be furnished to the Contractor pursuant to this
2 interim renewal contract shall be made available to the Contractor at approved turnouts on the
3 Canal Facilities and any additional point or points of delivery either on Project facilities or
4 another location or locations mutually agreed to in writing by the Contracting Officer and the
5 Contractor. The United States shall furnish such power as may be necessary to pump Project
6 Water at the existing Tehama-Colusa Canal side pumping plants and at existing relift stations at
7 heads and elevations sufficient to irrigate by gravity all areas within the Contractor's Boundaries
8 below elevation 300 (MSL).

9 (b) The Contracting Officer shall make all reasonable efforts to maintain
10 sufficient flows and levels of water in the Canal Facilities to furnish Project Water to the
11 Contractor at the full design capacity of the turnout(s) established as a delivery point(s) pursuant
12 to subdivision (a) of this Article. The parties acknowledge that it may be necessary from time to
13 time to shut down the canal for maintenance or emergencies. Except in the case of emergency,
14 the Contracting Officer shall consult with the Contractor to schedule the shut down at such times
15 and for such duration as will allow for the work to be accomplished completely and efficiently,
16 and with a minimum of disruption of water service to the Contractor. In this regard, shut downs
17 will, to the extent reasonably possible, be limited to the months of December and January.

18 (c) Irrigation Water furnished to the Contractor pursuant to this interim
19 renewal contract shall be delivered by the Contractor in accordance with any applicable land
20 classification provisions of Federal Reclamation law and the associated regulations. Project
21 Water shall not be delivered to land outside the Contractor's Boundaries unless approved in
22 advance by the Contracting Officer.

1 (d) All Project Water delivered to the Contractor pursuant to this interim
2 renewal contract shall be measured and recorded with equipment furnished, installed, operated
3 and maintained by the United States or the responsible Operating Non-Federal Entity at the point
4 or points of delivery established pursuant to subdivision (a) of this Article. Upon the request of
5 either party to this interim renewal contract, the Contracting Officer shall investigate the accuracy
6 of such measurements and shall take any necessary steps to adjust any errors appearing therein.
7 The Contractor shall advise the Contracting Officer on or before the 10th calendar day of each
8 month of the quantity of M&I Water taken during the preceding month.

9 (e) Neither the United States nor any Operating Non-Federal Entity shall be
10 responsible for the control, carriage, handling, use, disposal, or distribution of Project Water
11 made available to the Contractor pursuant to this interim renewal contract beyond the delivery
12 points specified in subdivision (a) of this Article. The Contractor shall indemnify the United
13 States its officers, employees, agents and assigns on account of damage or claim of damage of
14 any nature whatsoever for which there is legal responsibility, including property damage,
15 personal injury or death arising out of or connected with the control, carriage, handling, use,
16 disposal, or distribution of such Project Water beyond such delivery points, except for any
17 damage or claim arising out of (i) acts performed by the United States or any of its officers,
18 employees, agents or assigns, including any responsible Operating Non-Federal Entity, with the
19 intent of creating the situation resulting in any damage or claim, (ii) willful misconduct of the
20 United States or any of its officers, employees, agents, or assigns, including any responsible
21 Operating Non-Federal Entity, or (iii) negligence of the United States or any of its officers,
22 employees, agents or assigns including any responsible Operating Non-Federal Entity.

1 MEASUREMENT OF WATER WITHIN THE DISTRICT

2 6. (a) The Contractor shall ensure that, unless the Contractor has established an
3 alternative measurement program satisfactory to the Contracting Officer, all surface water
4 delivered for irrigation purposes within the Contractor's Boundaries is measured at each
5 agricultural turnout and such water delivered for municipal and industrial purposes is measured
6 at each municipal and industrial service connection. All water measuring devices or water
7 measuring methods of comparable effectiveness must be acceptable to the Contracting Officer.
8 The Contractor shall be responsible for installing, operating, and maintaining and repairing all
9 such measuring devices and implementing all such water measuring methods at no cost to the
10 United States. The Contractor shall use the information obtained from such water measuring
11 devices or water measuring methods to ensure proper management of the water; to bill water
12 users for water delivered by the Contractor; and, if applicable, to record water delivered for
13 municipal and industrial purposes by customer class as defined in its water conservation plan.
14 Nothing herein contained, however, shall preclude the Contractor from establishing and
15 collecting any charges, assessments or other revenues authorized by California law. The
16 Contractor shall include a summary of its annual surface water deliveries in the annual report
17 described in Article 25(d).

18 (b) Omitted

19 (c) All new surface water delivery systems installed within the Contractor's
20 Boundaries after the effective date of this interim renewal contract shall also comply with the
21 measurement provisions described in subdivision (a) of this Article.

1 (d) The Contractor shall inform the Contracting Officer and the State of
2 California in writing by April 30 of each Year of the monthly volume of surface water delivered
3 within the Contractor's Boundaries during the previous Year.

4 (e) The Contractor shall be responsible for ascertaining and reporting to the
5 Contracting Officer whether Delivered Water is put to use as Irrigation Water or M&I Water,
6 irrespective of the size of the landholding where the water is used, so that the Contracting Officer
7 can apply the appropriate Rates and Charges.

8 RATES AND METHOD OF PAYMENT FOR WATER

9 7. (a) The Contractor shall pay the United States in monthly payments as
10 provided in this Article for the quantities of Delivered Water furnished to the Contractor pursuant
11 to this interim renewal contract. Such payments shall consist of the applicable Rates and
12 Charges determined annually in accordance with applicable Federal law and associated
13 regulations. The Rates and Charges applicable upon execution of this interim renewal contract
14 are set forth in Exhibit "B."

15 (b) The Contracting Officer shall notify the Contractor of the Rates and
16 Charges as follows:

17 (1) Prior to July 1, of each Calendar Year, the Contracting Officer
18 shall provide the Contractor the preliminary calculation of the Charges that will be applied for
19 the period October 1, of the current Calendar Year, through September 30, of the following
20 Calendar Year, and identify the statutes, regulations and guidelines used as the basis for such
21 calculations. On or before September 15, of each Calendar Year, the Contracting Officer shall
22 notify the Contractor in writing of the Charges to be in effect during the period October 1, of the

1 current Calendar Year, through September 30, of the following Calendar Year, and such
2 notification shall revise Exhibit "B."

3 (2) Prior to October 1 of each Calendar Year, the Contracting Officer
4 shall make available to the Contractor an estimate of the Rates of payment for the following Year
5 and the computations and cost allocations upon which those Rates are based. The Contractor
6 shall be allowed not less than two months to review and comment on such computations and cost
7 allocations. By December 31 of each Calendar Year, the Contracting Officer shall provide the
8 Contractor with the final Rates to be in effect for the upcoming Year, and such notification shall
9 revise Exhibit "B."

10 (c) At the time the Contractor submits the initial schedule for the delivery of
11 Project Water for each Year pursuant to Article 4(b) of this interim renewal contract, the
12 Contractor shall pay the United States the total amount payable pursuant to the applicable Rate(s)
13 for all Project Water scheduled to be delivered pursuant to this interim renewal contract during
14 the first two (2) calendar months of the Year. Before the end of the first month or part thereof of
15 the Year, and before the end of each calendar month thereafter, the Contractor shall pay pursuant
16 to the applicable Rate(s) for all Project Water scheduled to be delivered pursuant to this interim
17 renewal contract during the second month immediately following. Adjustments between the
18 payments for the scheduled amount of Project Water and the appropriate payments for quantities
19 of Delivered Water furnished pursuant to this interim renewal contract each month shall be made
20 before the end of the following month: Provided, That any revised schedule submitted by the
21 Contractor pursuant to Article 4 which increases the amount of Project Water to be delivered
22 pursuant to this interim renewal contract during any month shall be accompanied with

1 appropriate payment for Rates to assure that Project Water is not furnished to the Contractor in
2 advance of such payment. In any month in which the quantity of Delivered Water furnished to
3 the Contractor pursuant to this interim renewal contract equals the quantity of Project Water
4 scheduled and paid for by the Contractor, no additional Project Water shall be made available to
5 the Contractor unless and until payment of Rates for such additional Project Water is made.

6 Final adjustment between the payments of Rates for the Project Water scheduled and the
7 quantities of Delivered Water furnished during each Year pursuant to this its contract shall be
8 made as soon as possible but no later than April 30th of the following Year.

9 (d) The Contractor shall pay all Charges owing for Delivered Water before the
10 end of the month following the month of delivery. Such amounts shall be consistent with the
11 quantities of Irrigation Water and M&I Water shown in the United States' water delivery report
12 for the subject month. The water delivery report shall be regarded by the Contractor as a bill for
13 the payment of appropriate Charges. Any monthly adjustment for overpayment or underpayment
14 of Charges shall be accomplished through the adjustment of Charges due to the United States in
15 the next month. By March 31, of each Year, the Contractor shall make any additional payment
16 of Charges it is obligated to make for Delivered Water furnished to the Contractor pursuant to its
17 contract for the previous Year. The amount to be paid for past due payment of Charges shall be
18 computed pursuant to Article 19 of this interim renewal contract.

19 (e) The Contractor shall pay for any Project Water provided under Article 3(d)
20 or 3(e) as determined by the Contracting Officer pursuant to applicable statutes, regulations,
21 guidelines and policies.

1 (f) Payments to be made by the Contractor to the United States under this
2 interim renewal contract may be paid from any revenues available to the Contractor.

3 (g) Revenues received by the United States pursuant to this interim renewal
4 contract shall be allocated and applied in accordance with Federal Reclamation law, including
5 but not limited to, subsection 3 of Section 1 of the Act of July 2, 1956 (70 Stat. 483), and
6 subsection (f) of Section 3405, subsection (c)(1) of Section 3406 and subsection (d)(2)(A) of
7 Section 3407 of the CVPIA, and the associated regulations, including but not limited to, the
8 Project Irrigation Water ratesetting policy and the Project M&I ratesetting policy promulgated
9 pursuant to the Administrative Procedures Act.

10 (h) At the Contractor's request, the Contracting Officer shall provide to the
11 Contractor an accounting of all of the expenses allocated and the disposition of all revenues
12 received pursuant to this interim renewal contract in sufficient detail to allow the Contractor to
13 determine that the allocation of expenses and disposition of all revenues received was
14 accomplished in conformance with Federal Reclamation law and the associated regulations. The
15 Contracting Officer and the Contractor shall enter into good faith negotiations to resolve any
16 discrepancies or disputes arising out of said accounting of the Contractor's review thereof.

17 (i) The parties acknowledge and agree that the efficient administration of this
18 interim renewal contract is their mutual goal. Recognizing that experience has demonstrated that
19 mechanisms, policies and procedures used for establishing Rates and Charges, and/or for making
20 and allocating payments, other than those set forth in this Article would be in the mutual best
21 interest of the parties, it is expressly agreed that the parties may enter into agreements for

1 alternative mechanisms, policies and procedures for any of those purposes while this interim
2 renewal contract is in effect without amending this contract.

3 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

4 8. The Contractor and the Contracting Officer concur that at the time of execution of
5 this interim renewal contract, the Contractor has no non-interest bearing operation and
6 maintenance deficit and shall have no further liability therefor.

7 TRANSFERS OR EXCHANGES OF WATER

8 9. (a) The right to Project Water provided for in this interim renewal contract
9 may be sold, transferred, or exchanged to others for beneficial uses within the State of California
10 if such sale, transfer or exchange is authorized by applicable Federal laws, State laws, and
11 applicable guidelines or regulations then in effect. The right to sell, transfer or exchange Project
12 Water shall include, and the Contracting Officer shall apply this Article in a manner that does not
13 impede or restrict, lawful short-term sales, transfers, or exchanges of the type the Contractor
14 historically carried out with approval of the Contracting Officer under Contract No. 14-06-200-
15 6001A. No sale, transfer or exchange of the right to Project Water under this interim renewal
16 contract may take place without the prior written approval of the Contracting Officer.

17 (b) For the purpose of determining whether section 3405 (a)(1)(M) of the
18 CVPIA applies to the Contractor as a transferor or transferee of Project Water, the Contracting
19 Officer acknowledges that the Contractor is within a county, watershed, or other area of origin, as
20 those terms are utilized under California law, of water that constitutes the natural flow of the
21 Sacramento River and its tributaries above the confluence of the American and Sacramento
22 Rivers.

1 APPLICATION OF PAYMENTS AND ADJUSTMENTS

2 10. (a) The amount of any overpayment by the Contractor shall be applied first to
3 any accrued indebtedness arising out of this interim renewal contract then due and payable by the
4 Contractor. Any amount of such overpayment then remaining shall, at the option of the
5 Contractor, be refunded to the Contractor or credited upon amounts to become due to the United
6 States from the Contractor under the provisions hereof in the following months. With respect to
7 overpayment, such adjustment shall constitute the sole remedy of the Contractor or anyone
8 having or claiming to have the right to the use of any of the water supply provided for herein.

9 (b) All advances for miscellaneous costs incurred for work requested by the
10 Contractor pursuant to Article 24 shall be adjusted to reflect the actual costs when the work has
11 been completed. If the advances exceed the actual costs incurred, the difference will be refunded
12 to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will be
13 billed for the additional costs pursuant to Article 24.

14
15
16 TEMPORARY REDUCTIONS--RETURN FLOWS

17 11. (a) Subject to: (i) the authorized purposes and priorities of the Project; and (ii)
18 the obligations of the United States under existing contracts, or renewals thereof, providing for
19 water deliveries from the Project, the Contracting Officer shall make all reasonable efforts to
20 optimize Project Water deliveries to the Contractor as provided in the contract.

21 (b) The United States may temporarily discontinue or reduce the quantity of
22 Project Water to be delivered to the Contractor as herein provided for the purposes of

1 investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or
2 any part thereof necessary for the delivery of Project Water to the Contractor, but so far as
3 feasible the Contracting Officer will give the Contractor due notice in advance of such temporary
4 discontinuance or reduction, except in case of emergency, in which case no notice need be given:
5 Provided, That the United States shall use its best efforts to avoid any discontinuance or
6 reduction in such service. Upon resumption of service after such reduction or discontinuance, and
7 if requested by the Contractor, the United States will, if possible, deliver the quantity of Project
8 Water which would have been delivered hereunder in the absence of such discontinuance or
9 reduction: Provided further, That with respect to any quantity of Project Water not delivered
10 after a discontinuance or reduction the Contractor shall be relieved of its scheduling and payment
11 obligations for such quantity of Project Water.

12 (c) The United States reserves the right to all seepage and return flow water
13 derived from water delivered to the Contractor hereunder which escapes or is discharged beyond
14 the Contractor's Boundaries: Provided, That this shall not be construed as claiming for the
15 United States any right to seepage or return flow being put to reasonable and beneficial use
16 pursuant to this interim renewal contract within the Contractor's Boundaries by the Contractor or
17 those claiming by, through, or under the Contractor.

18 WATER SHORTAGE AND APPORTIONMENT

19 12. (a) In its operation of the Project, the Contracting Officer will use all
20 reasonable means to guard against a condition of shortage in the quantity of water to be made
21 available to the Contractor pursuant to this contract. Insofar as determined by the Contracting

Officer to be practicable, the Contracting Officer will, in the event a shortage appears probable, notify the Contractor of such determinations as soon as possible.

(b) If there is a reduction in the total water supply available to the Contractor during any Year because of errors in physical operations of the Project, drought, other physical causes beyond the control of the Contracting Officer or actions taken by the Contracting Officer to meet legal obligations, no liability shall accrue against the United States or any of its officers, agents, or employees for any damages, direct or indirect, arising therefrom, so long as actions based upon the opinions or determinations of the Contracting Officer are consistent with the standards in Article 18.

(c) In any Year in which there may occur a shortage for any of the reasons specified in subdivision (b) above, the Contracting Officer shall apportion the available Project Water supply among the Contractor and others entitled, under existing contracts and future contracts (to the extent such future contracts are permitted under subsections (a) and (b) of Section 3404 of the CVPIA) and renewals thereof, to receive Project Water consistent with the contractual obligations of the United States.

UNAVOIDABLE GROUNDWATER PERCOLATION

13. The Contractor shall not be deemed to have furnished Irrigation Water to Excess Lands or Ineligible Lands within the meaning of this interim renewal contract if such lands are irrigated with groundwater that reaches the underground strata as an unavoidable result of the furnishing of Irrigation Water by the Contractor to Eligible Lands.

COMPLIANCE WITH FEDERAL RECLAMATION LAW

1 14. This interim renewal contract shall be implemented in accordance with all
2 applicable provisions of Federal Reclamation law, as amended and supplemented.

3 WATER AND AIR POLLUTION CONTROL

4 15. The Contractor, in carrying out this contract, shall comply with all applicable
5 water and air pollution laws and regulations of the United States and the State of California, and
6 shall obtain all required permits or licenses from the appropriate Federal, State, or local
7 authorities.

8 QUALITY OF WATER

9
10
11 16. (a) Project facilities used to make available and deliver Project Water to the
12 Contractor pursuant to this interim renewal contract shall be operated and maintained to enable
13 the United States to make available and deliver Project Water to the Contractor in accordance
14 with the water quality standards specified in subsection 2(b) of the Act of August 26, 1937 (50
15 Stat. 865), as added by Section 101 of the Act of October 27, 1986 (100 Stat. 3050) or other
16 existing Federal laws. The United States is under no obligation to construct or furnish water
17 treatment facilities to maintain or to better the quality of Project Water furnished to the
18 Contractor pursuant to this contract. The United States does not warrant the quality of Project
19 Water made available and delivered to the Contractor pursuant to this contract.

20 (b) The operation and maintenance of Project facilities shall be performed in
21 such manner as is practicable to maintain the quality of raw water made available through such
22 facilities at the highest level reasonably attainable as determined by the Contracting Officer. The
23 Contractor shall be responsible for compliance with all State and Federal water quality standards
24 applicable to surface and subsurface agricultural drainage discharges generated through the use of
25 Federal or Contractor facilities or Project Water provided by the Contractor within the

Contractor's Boundaries. This Article shall not affect or alter any legal obligations of the Secretary to provide drainage services.

WATER ACQUIRED BY THE CONTRACTOR OTHER THAN
FROM THE UNITED STATES

17. Water or water rights now owned or hereafter acquired by the Contractor other than from the United States and Irrigation Water furnished pursuant to the terms of this interim renewal contract may be simultaneously transported through the same distribution facilities of the Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water and non-Project water were constructed without funds made available pursuant to Federal Reclamation law, the provisions of Federal Reclamation law will be applicable only to the Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive Irrigation Water must be established through the certification requirements as specified in the Acreage Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of Eligible Lands within the Contractor's Boundaries can be established and the quantity of Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation Water and non-Project water are constructed with funds made available pursuant to Federal Reclamation law, the non-Project water will be subject to Federal Reclamation law, until such funds have been repaid.¹

OPINIONS AND DETERMINATIONS

¹ Possible contractual provisions concerning the transportation of non-Project Water through CVP facilities pursuant to the Warren Act were still under discussion in other divisions at the time that divisional negotiations between the Bureau of Reclamation and the Tehama-Colusa and Corning Canal districts were completed on Sept. 19, 1994. Should Reclamation ultimately agree to include language in this regard in the form of contract for other divisions, then such language will also be included in the contracts of Tehama-Colusa or Corning Canal districts which request it.

1 18. (a) Where the terms of this interim renewal contract provide for actions to be
2 based upon the opinion or determination of either party to this contract, said terms shall not be
3 construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable
4 opinions or determinations. Both parties, notwithstanding any other provisions of this contract,
5 expressly reserve the right to seek relief from and appropriate adjustment, including monetary
6 damages, for any such arbitrary, capricious or unreasonable opinion or determination. Each
7 opinion or determination by either party shall be provided in a timely manner.

8 (b) The Contracting Officer shall have the right to make determinations
9 necessary to administer this interim renewal contract that are consistent with the expressed and
10 implied provisions of this contract, the laws of the United States and the State of California, and
11 the rules and regulations promulgated by the Secretary of the Interior. Such determinations shall
12 be made in consultation with the Contractor to the extent reasonably practicable.

13 CHARGES FOR DELINQUENT PAYMENTS

14 19. (a) The Contractor shall be subject to interest, administrative and penalty
15 charges on delinquent installments or payments. When a payment is not received by the due
16 date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond
17 the due date. When a payment becomes 60 days delinquent, the Contractor shall pay an
18 administrative charge to cover additional costs of billing and processing the delinquent payment.
19 When a payment is delinquent 90 days or more, the Contractor shall pay an additional penalty
20 charge of 6 percent per year for each day the payment is delinquent beyond the due date. Further,
21 the Contractor shall pay any fees incurred for debt collection services associated with a
22 delinquent payment.

23
24 (b) The interest charge rate shall be the greater of the rate prescribed quarterly
25 in the Federal Register by the Department of the Treasury for application to overdue payments, or
26 the interest rate of 0.5 percent per month prescribed by Section 6 of the Reclamation Project Act
27 of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due date and
28 remain fixed for the duration of the delinquent period.
29

1 (c) When a partial payment on a delinquent account is received, the amount
2 received shall be applied, first to the penalty, second to the administrative charges, third to the
3 accrued interest, and finally to the overdue payment.
4

5 EQUAL OPPORTUNITY

6

7 20. During the performance of this contract, the Contractor agrees as follows:
8

9 (1) The Contractor will not discriminate against any employee or applicant for
10 employment because of race, color, religion, sex, or national origin. The Contractor will
11 take affirmative action to ensure that applicants are employed, and that employees are
12 treated during employment, without regard to their race, color, religion, sex, or national
13 origin. Such action shall include, but not be limited to, the following: Employment,
14 upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or
15 termination, rates of payment or other forms of compensation; and selection for training,
16 including apprenticeship. The Contractor agrees to post in conspicuous places, available
17 to employees and applicants for employment, notices to be provided by the Contracting
18 Officer setting forth the provisions of this nondiscrimination clause.
19

20 (2) The Contractor will, in all solicitations or advertisements for employees
21 placed by or on behalf of the Contractor, state that all qualified applicants will receive
22 consideration for employment without discrimination because of race, color, religion, sex,
23 or national origin.
24

25 (3) The Contractor will send to each labor union or representative of workers
26 with which it has a collective bargaining agreement or other contract or understanding, a
27 notice, to be provided by the Contracting Officer, advising the said labor union or
28 workers' representative of the Contractor's commitments under Section 202 of Executive
29 Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous
30 places available to employees and applicants for employment.
31

32 (4) The Contractor will comply with all provisions of Executive Order No.
33 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant
34 orders of the Secretary of Labor.
35

36 (5) The Contractor will furnish all information and reports required by said
37 amended Executive Order and by the rules, regulations, and orders of the Secretary of
38 Labor, or pursuant thereto, and will permit access to its books, records, and accounts by
39 the Contracting Officer and the Secretary of Labor for purposes of investigation to
40 ascertain compliance with such rules, regulations, and orders.
41

42 (6) In the event of the Contractor's noncompliance with the nondiscrimination
43 clauses of this contract or with any of the said rules, regulations, or orders, this contract

1 may be canceled, terminated, or suspended, in whole or in part, and the Contractor may
2 be declared ineligible for further Government contracts in accordance with procedures
3 authorized in said amended Executive Order, and such other sanctions may be imposed
4 and remedies invoked as provided in said Executive Order, or by rule, regulation, or order
5 of the Secretary of Labor, or as otherwise provided by law.
6

7 (7) The Contractor will include the provisions of paragraphs (1) through (7) in
8 every subcontract or purchase order unless exempted by the rules, regulations, or orders
9 of the Secretary of Labor issued pursuant to Section 204 of said amended Executive
10 Order, so that such provisions will be binding upon each subcontractor or vendor. The
11 Contractor will take such action with respect to any subcontract or purchase order as may
12 be directed by the Secretary of Labor as a means of enforcing such provisions, including
13 sanctions for noncompliance: Provided, however, That in the event the Contractor
14 becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a
15 result of such direction, the Contractor may request the United States to enter into such
16 litigation to protect the interests of the United States.
17

18 GENERAL OBLIGATION--BENEFITS
19 CONDITIONED UPON PAYMENT
20

21 21. (a) The obligation of the Contractor to pay the United States as provided in
22 this contract is a general obligation of the Contractor notwithstanding the manner in which the
23 obligation may be distributed among the Contractor's water users and notwithstanding the default
24 of individual water users in their obligations to the Contractor.
25

26 (b) The payment of charges becoming due hereunder is a condition precedent
27 to receiving benefits under this contract. The United States shall not make water available to the
28 Contractor through project facilities during any period in which the Contractor may be in arrears
29 in the advance payment of water rates due the United States. The Contractor shall not furnish
30 water made available pursuant to this contract for lands or parties which are in arrears in the
31 advance payment of water rates levied or established by the Contractor.
32

33 COMPLIANCE WITH CIVIL RIGHTS LAWS
34 AND REGULATIONS
35

36 22. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
37 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
38 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights
39 laws, as well as with their respective implementing regulations and guidelines imposed by the
40 U.S. Department of the Interior and/or Bureau of Reclamation.
41

42 (b) These statutes require that no person in the United States shall, on the
43 grounds of race, color, national origin, handicap, or age, be excluded from participation in, be

1 denied the benefits of, or be otherwise subjected to discrimination under any program or activity
2 receiving financial assistance from the Bureau of Reclamation. By executing this contract, the
3 Contractor agrees to immediately take any measures necessary to implement this obligation,
4 including permitting officials of the United States to inspect premises, programs, and documents.
5

6 (c) The Contractor makes this agreement in consideration of and for the
7 purpose of obtaining any and all Federal grants, loans, contracts, property discounts or other
8 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of
9 Reclamation, including installment payments after such date on account of arrangements for
10 Federal financial assistance which were approved before such date. The Contractor recognizes
11 and agrees that such Federal assistance will be extended in reliance on the representations and
12 agreements made in this Article, and that the United States reserves the right to seek judicial
13 enforcement thereof.
14
15

1 PRIVACY ACT COMPLIANCE

2
3 23. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a)
4 (the Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et
5 seq.) in maintaining landholder acreage certification and reporting records, required to be
6 submitted to the Contractor for compliance with sections 206 and 228 of the Reclamation
7 Reform Act of 1982 (96 Stat. 1266), and pursuant to 43 CFR 426.10.

8
9 (b) With respect to the application and administration of the criminal penalty
10 provisions of the Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees
11 responsible for maintaining the certification and reporting records referenced in (a) above are
12 considered to be employees of the Department of the Interior. See 5 U.S.C. 552a(m).

13
14 (c) The Contracting Officer or a designated representative shall provide the
15 Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau
16 of Reclamation Federal Register Privacy Act System of Records Notice (Acreage Limitation--
17 Interior, Reclamation-31) which govern the maintenance, safeguarding, and disclosure of
18 information contained in the landholder's certification and reporting records.

19
20 (d) The Contracting Officer shall designate a full-time employee of the Bureau
21 of Reclamation to be the System Manager who shall be responsible for making decisions on
22 denials pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The
23 Contractor is authorized to grant requests by individuals for access to their own records.

24
25 (e) The Contractor shall forward promptly to the System Manager each
26 proposed denial of access under 43 CFR 2.64; and each request for amendment of records filed
27 under 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System
28 Manager with information and records necessary to prepare an appropriate response to the
29 requester. These requirements do not apply to individuals seeking access to their own
30 certification and reporting forms filed with the Contractor pursuant to 43 CFR 426.10, unless the
31 requester elects to cite the Privacy Act as a basis for the request.

32
33 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

34
35 24. In addition to all other payments to be made by the Contractor pursuant to this
36 contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a bill
37 and detailed statement submitted by the Contracting Officer to the Contractor for such specific
38 items of direct cost incurred by the United States for work requested by the Contractor associated
39 with this interim renewal contract plus a percentage of such direct costs for administrative and

1 general overhead in accordance with applicable Bureau of Reclamation policy and procedures.
2 All such amounts referred to in this Article shall not exceed the amount agreed to in writing in
3 advance by the Contractor. This Article shall not apply to costs for routine contract
4 administration.

5 WATER CONSERVATION

6 25. (a) Prior to the delivery of water provided from or conveyed through Federally
7 constructed or Federally financed facilities pursuant to this contract, the Contractor shall be
8 implementing an effective water conservation program based on the Contractor's water
9 conservation plan that has been determined by the Contracting Officer to meet the conservation
10 and efficiency criteria established under Federal law. The water conservation program shall
11 contain definite water conservation objectives, appropriate economically feasible water
12 conservation measures, and time schedules for meeting those objectives.

13 (b) Should the combined amount of M&I Water delivered pursuant to
14 subdivision (a) of Article 3 during the term of this interim renewal contract equal or exceed
15 2,000 acre-feet, the Contractor shall implement the Best Management Practices identified by and
16 the time frames issued by the California Urban Water Conservation Council unless any such
17 practice is determined by the Contracting Officer to be inappropriate for the Contractor.

18 (c) As part of the water conservation program, the Contractor shall develop
19 and be implementing a tiered block water pricing program that promotes conservation and the
20 efficient management of Project Water during the term of this contract. Such pricing program for
21 Project Water shall take into account all relevant circumstances, including without limitation,
22 water shortages imposed under this interim renewal contract and the availability and cost of the

1 Contractor's and individual water user's non-Project alternative sources of supply, including
2 ground water and other non-Project water supplies, so that the Contractor's pricing structure
3 provides incentives for conservation and the efficient management of overall water supply
4 available to water users served by the Contractor. Provided, That no such tiered block water
5 pricing program need be implemented by the Contractor if the Contracting Officer determines,
6 based on information provided by the Contractor, that (i) such a pricing structure will not result
7 in significant conservation of water available for use within the Contractor's service area,
8 including ground water or (ii) other pricing program, conservation or management measures are
9 more appropriate and/or will result in comparable or better conservation of the water supplies
10 available within the Contractor's boundaries. Provided further, If the Contractor fails to, or elects
11 not to, comply with this subdivision of Article 25, then any subsequent interim renewal contract
12 shall contain a tiered pricing contractual provision pursuant to subsection (d) of Section 3405 of
13 the CVPIA.

14 (d) The Contractor shall submit to the Contracting Officer by
15 December 31, of each Calendar Year, an annual report on the status of its implementation of the
16 water conservation program.

17 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

18 26. Except as specifically provided in Article 17 of this contract, the provisions of this
19 interim renewal contract shall not be applicable to or affect water or water rights now owned or
20 hereafter acquired by the Contractor or any user of such water within the Contractor's Boundaries
21 from other than the United States by the Contractor. Any such water shall not be considered
22 Project Water under this contract. In addition, this interim renewal contract shall not be

1 construed as limiting or curtailing any rights which the Contractor or any water user within the
2 Contractor's Boundaries acquires or has available under any other contract pursuant to the
3 Federal Reclamation law.

4 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

5 27. (a) The operation and maintenance of a portion of the Canal Facilities, and
6 responsibility for funding the costs of such operation and maintenance, has been transferred to an
7 Operating-Non-Federal Entity by separate agreement between the United States and the
8 Operating Non-Federal Entity. That separate agreement shall not interfere with the rights or
9 obligations of the Contractor or the United States hereunder.

10 (b) Since the Contracting Officer has notified the Contractor in writing that
11 the operation and maintenance of a portion of the Canal Facilities has been transferred to an
12 Operating Non-Federal Entity, the Contractor shall pay directly to such Operating Non-Federal
13 Entity all rates, charges, or assessments of any kind, including any assessment for reserve funds,
14 which the Operating Non-Federal Entity determines, sets, or establishes for the operation and
15 maintenance of the portion of the Canal Facilities operated and maintained by the Operating
16 Non-Federal Entity, all in compliance with all provisions of Article 7 hereof. The Contractor
17 shall also submit to the Non-Federal Entity, as fiscal agent for the Secretary, that portion of the
18 Contractor's obligation to the United States for its allocated share of the Project construction
19 costs and its allocated share of the remaining operation and maintenance costs for the Project.

20 (c) Because of the transfer of operation and maintenance of the Canal
21 Facilities to an Operating Non-Federal Entity, the Contracting Officer shall adjust accordingly

1 the portions of the Rates for water under this Contract representing operation and maintenance
2 costs of the Canal Facilities that the Operating Non-Federal Entity assesses and collects directly.

3 (d) In the event the operation and maintenance of the portion of the Canal
4 Facilities transferred to the Operating Non-Federal Entity is reassumed by the United States
5 during the term of this contract, the Contracting Officer shall so notify the Contractor, in writing,
6 and present to the Contractor a revised Exhibit B which shall include the portion of the Rates for
7 water under this contract representing the operation and maintenance costs of the portion of the
8 Canal Facilities which has been reassumed. The Contractor shall thereafter, and in the absence
9 of written notification from the Contracting Officer to the contrary, pay the Rates specified in the
10 revised Exhibit B directly to the United States, in compliance with Article 7 herein.

11 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

12 28. The expenditure or advance of any money or the performance of any obligation of
13 the United States under this contract shall be contingent upon appropriation or allotment of
14 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
15 obligations under this contract. No liability shall accrue to the United States in case funds are not
16 appropriated or allotted.
17
18
19
20

21 BOOKS RECORDS AND REPORTS

22

23 29. The Contractor shall establish and maintain accounts and other books and records
24 pertaining to administration of the terms and conditions of this contract, including: the
25 Contractor's financial transactions, water supply data, and Project land and right-of-way
26 agreements; the water users' land-use (crop census), landownership, land-leasing and water use
27 data; and other matters that the Contracting Officer may require. Reports thereon shall be
28 furnished to the Contracting Officer in such form and on such date or dates as the Contracting
29 Officer may require. Subject to applicable Federal laws and regulations, each party to this
30 contract shall have the right during office hours to examine and make copies of the other party's
31 books and records relating to matters covered by this contract.
32

1 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

2
3 30. (a) The provisions of this contract shall apply to and bind the successors and
4 assigns of the parties hereto, but no assignment or transfer of this contract or any right or interest
5 therein shall be valid until approved in writing by the Contracting Officer.

6
7 (b) The assignment of any right or interest in this interim renewal contract by
8 either party shall not interfere with the rights or obligations of the other party to this interim
9 renewal contract absent the written concurrence of said other party.

10 SEVERABILITY

11 31. In the event that a person or entity who is neither (i) a party to a Project interim
12 renewal contract, nor (ii) a person or entity that receives Project Water from a party to a Project
13 interim renewal contract, nor (iii) an association or other form of organization whose primary
14 function is to represent parties to Project interim renewal contracts, brings an action in a court of
15 competent jurisdiction challenging the legality or enforceability of a provision included in this
16 interim renewal contract and said person, entity, association, or organization obtains a final court
17 decision holding that such provision is legally invalid or unenforceable and the Contractor has
18 not intervened in that lawsuit in support of the plaintiff(s), the parties to this interim renewal
19 contract shall use their best efforts to (i) within thirty (30) days of the date of such final court
20 decision identify by mutual agreement the provisions in this interim renewal contract which must
21 be revised, and (ii) within three (3) months thereafter promptly agree on the appropriate
22 revision(s). The time periods specified above may be extended by mutual agreement of the
23 parties. Pending the completion of the actions designated above, to the extent it can do so
24 without violating any applicable provisions of law, the United States shall continue to make the
25 quantities of Project Water specified in this interim renewal contract available to the Contractor

pursuant to the provisions of this interim renewal contract which were not found to be legally invalid or unenforceable in the final court decision.

OFFICIALS NOT TO BENEFIT

32. No Member of or Delegate to Congress, Resident Commissioner or official of the Contractor shall benefit from this contract other than as a water user or landowner in the same manner as other water users or landowners.

CHANGES IN CONTRACTOR'S BOUNDARIES

33. While this contract is in effect, no change may be made in the Contractor's boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger or otherwise, except upon the Contracting Officer's written consent.

NOTICES

34. Any notice, demand, or request authorized or required by this contract shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Area Manager, Northern California Area Office, Bureau of Reclamation, 16349 Shasta Dam Boulevard, Shasta Lake, California 96019-8400 and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of Directors of the Davis Water District, PO Box 83, 102 Fifth Street, Arbuckle, California 95912. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this Article for other notices.

1 IN WITNESS WHEREOF, the parties hereto have executed this interim renewal contract as of
2 the day and year first above written.
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5 THE UNITED STATES OF AMERICA

DAVIS WATER DISTRICT

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11 By: /s/ Lowell F. Ploss
12 Acting Regional Director
13 Mid-Pacific Region
14 Bureau of Reclamation
15

By: /s/ James Lee Charter
President

16
17 Attest: /s/ Daniel Charter
18 Secretary
19

20 (SEAL)

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY

/s/ James E. Turner

OFFICE OF REGIONAL SOLICITOR
DEPARTMENT OF THE INTERIOR